

[Fifth Reprint]

## ASSEMBLY, No. 4049

# STATE OF NEW JERSEY

## 220th LEGISLATURE

INTRODUCED MAY 19, 2022

**Sponsored by:**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Danielsen, Verrelli, Assemblywomen Jaffer, Jimenez, Assemblyman Guardian, Assemblywomen Carter, Park, Assemblyman Wimberly, Assemblywomen Speight, Pintor Marin, Senators Gill, Diegnan, Singer, Stanfield, Thompson, Turner and Ruiz**

### SYNOPSIS

Provides for presumptive eligibility for home and community-based services and services provided through program of all-inclusive care for the elderly under Medicaid.

### CURRENT VERSION OF TEXT

As amended by the Senate on December 21, 2023.

(Sponsorship Updated As Of: 1/8/2024)

1 AN ACT concerning presumptive eligibility for Medicaid home and  
 2 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> and  
 3 services provided through programs of all-inclusive care for the  
 4 elderly,<sup>2</sup> and supplementing Title 30 of the Revised Statutes.

5  
 6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 7 *of New Jersey:*

8  
 9 1. a. <sup>5</sup>[The] Within 30 months of enactment of P.L. , c. (C. )  
 10 (pending before the Legislature as this bill), and conditional on the  
 11 receipt of all necessary approvals and the securing of federal financial  
 12 participation pursuant to subsection g. of this section, the<sup>5</sup> Department  
 13 of Human Services shall provide <sup>5</sup>[for the]<sup>5</sup> presumptive eligibility  
 14 for <sup>5</sup>[home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home  
 15 services.]<sup>4</sup> and <sup>3</sup>[programs of all-inclusive care for the elderly  
 16 (PACE)<sup>2</sup>] services provided through PACE<sup>3</sup> under<sup>5</sup> Medicaid <sup>5</sup>,  
 17 including, where appropriate, eligibility for the managed long-term  
 18 services and supports program,<sup>5</sup> for an individual who is: seeking  
 19 home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or  
 20 PACE enrollment<sup>2</sup>; awaiting an eligibility determination for Medicaid  
 21 <sup>5</sup>[and any applicable Medicaid waiver program offering home and  
 22 community-based services] or for the managed long-term services and  
 23 supports program<sup>5</sup> <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or services provided  
 24 through PACE<sup>2</sup>; and likely to be financially and clinically eligible for  
 25 Medicaid and <sup>5</sup>[any applicable Medicaid waiver program offering  
 26 home and community-based services] where necessary the managed  
 27 long-term services and supports program<sup>5</sup> <sup>4</sup>[<sup>2</sup>, nursing home  
 28 services.]<sup>4</sup> or services provided through PACE<sup>2</sup>, as determined by the  
 29 department.

30 b. <sup>5</sup>[The] Conditional on federal financial participation, the<sup>5</sup>  
 31 department shall provide Medicaid coverage for eligible home and  
 32 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services.]<sup>4</sup> or services  
 33 provided through PACE<sup>2</sup> to an individual who is granted  
 34 <sup>1</sup>[presumptively] presumptive<sup>1</sup> eligibility pursuant to this section.  
 35 Coverage provided under this subsection shall begin upon the receipt  
 36 of an individual's request for services, pursuant to subsection <sup>3</sup>[c] c.<sup>3</sup>  
 37 of this section, and shall be terminated if the individual is determined  
 38 clinically or financially ineligible for home and community-based

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ASE committee amendments adopted June 2, 2022.

<sup>2</sup>Assembly AHU committee amendments adopted February 9, 2023.

<sup>3</sup>Assembly ABU committee amendments adopted June 28, 2023.

<sup>4</sup>Senate floor amendments adopted December 11, 2023.

<sup>5</sup>Senate floor amendments adopted December 21, 2023.

1 services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or services provided through  
2 PACE<sup>2</sup> under Medicaid during the eligibility determination process.

3 c. An individual seeking presumptive eligibility for home and  
4 community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or services  
5 provided through PACE<sup>2</sup> under Medicaid shall submit a request to the  
6 department in a manner and form as determined by the commissioner.

7 d. <sup>1</sup>[The] An<sup>1</sup> individual granted presumptive eligibility pursuant  
8 to this section shall be required to submit a completed application for  
9 Medicaid and any applicable Medicaid waiver program offering home  
10 and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or  
11 services provided through PACE<sup>2</sup> no later than the end of the month  
12 following the month in which presumptive eligibility is granted.

13 e. <sup>5</sup>[<sup>2</sup>A] Conditional on federal financial participation, a<sup>5</sup> home  
14 and community-based services provider <sup>4</sup>[, nursing home facility,]<sup>4</sup> or  
15 PACE center shall be reimbursed for all Medicaid-eligible services  
16 rendered to an individual who has been granted presumptive eligibility  
17 pursuant to this section, regardless <sup>3</sup>[if] of whether<sup>3</sup> the individual  
18 granted presumptive eligibility is determined clinically or financially  
19 ineligible for home and community-based services <sup>4</sup>[, nursing home  
20 services,]<sup>4</sup> or services provided through PACE under Medicaid during  
21 the eligibility determination process.

22 f.<sup>2</sup> The department shall provide each individual granted  
23 presumptive eligibility pursuant to this section a written notice  
24 explaining the terms and conditions of presumptive eligibility and the  
25 home and community-based services <sup>4</sup>[<sup>2</sup>, nursing home services,]<sup>4</sup> or  
26 services provided through PACE<sup>2</sup> the individual will be eligible to  
27 receive.

28 <sup>2</sup>[f.] g.<sup>2</sup> The commissioner shall apply for such State plan  
29 amendments or waivers as may be necessary to implement the  
30 provisions of this section and to secure federal financial participation  
31 for State Medicaid expenditures under the federal Medicaid program.

32 <sup>5</sup>The provision of presumptive eligibility pursuant to this section shall  
33 be contingent on securing all necessary federal approvals and federal  
34 financial participation as may be necessary to implement the  
35 provisions of this section.<sup>5</sup>

36 <sup>2</sup>[g.] h.<sup>2</sup> <sup>5</sup>In designing the program required pursuant to  
37 subsection a. of this section, the Department shall assess the success of  
38 other jurisdictions in providing for presumptive eligibility for home  
39 and community-based services and related services for Medicaid  
40 recipients; consider methods for minimizing costs due to  
41 determinations of clinical or financial ineligibility; and engage with  
42 relevant stakeholders to determine how to best tailor the benefit to the  
43 needs of the Medicaid population.

44 i.<sup>5</sup> As used in this section:

45 “Commissioner” means the Commissioner of Human Services.

46 “Department” means Department of Human Services.

1       “Eligibility determination” means the administrative process by  
2       which the Division of Medical Assistance and Health Services in the  
3       Department of Human Services or a county welfare agency reviews a  
4       beneficiary’s income, financial resources, and circumstances relating  
5       to the beneficiary’s application for benefits received under Medicaid  
6       or any applicable Medicaid waiver program offering home and  
7       community-based services <sup>4</sup>~~“<sup>2</sup>, nursing home services.”~~<sup>4</sup> or services  
8       provided through PACE<sup>2</sup>.

9       <sup>5</sup>“Home and community-based services” means community-based  
10      services provided under the managed long term services and supports  
11      program or personal care assistant services provided in the home under  
12      New Jersey’s Medicaid State Plan.<sup>5</sup>

13      “Medicaid” means the Medicaid program established pursuant to  
14      P.L.1968, c.413 (C.30:4D-1 et seq.).

15      <sup>3</sup>“PACE” means the program of all-inclusive care for the elderly as  
16      defined in section 1 of P.L.1997, c.296 (C.26:2H-88).<sup>3</sup>

17  
18      2. The Commissioner of Human Services, in accordance with  
19      the "Administrative Procedure Act," P.L.1968, c.410  
20      (C.52:14B-1 et seq.), shall adopt such rules and regulations as the  
21      commissioner deems necessary to carry out the provisions of this  
22      act.

23  
24      3. This act shall take effect <sup>5</sup>~~“<sup>4</sup> immediately”~~ on the first day of  
25      the 18th month next following enactment, except that the  
26      Commissioner of Human Services may take any anticipatory  
27      administrative action in advance as shall be necessary for the  
28      implementation of this act<sup>4</sup>~~”~~ immediately<sup>5</sup>.